

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: _____ DATE FILED: 1/12/2024
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X
CARLOS R. ROSA,

Plaintiff,

-v -

PARK AVENUE SOUTH MANAGEMENT LLC,
et al.,

Defendants.

----- X
GREGORY H. WOODS, United States District Judge:


1:24-cv-119-GHW

ORDER

On January 11, 2024, Plaintiff submitted a notice of voluntary dismissal, seeking to dismiss this action against Defendant Tri-Star Equities, Inc. without prejudice under 41(a)(1)(A)(i). Dkt. No. 14. In *Samake v. Thunder Lube, Inc.*, 24 F.4th 804, 807 (2d Cir. 2022), the Second Circuit concluded that the Court must evaluate voluntary dismissals of FLSA claims without prejudice under Rule 41(a)(1)(A) to ensure that they do not obscure a settlement. As a result, the Court cannot endorse Plaintiff's stipulation of dismissal in its current form without conducting appropriate diligence as mandated by the Second Circuit. The Court will accept a stipulation of dismissal under Rule 41(a)(1)(A)(i) so long as the plaintiff certifies that there has been no settlement of FLSA claims. Counsel are directed to review the Second Circuit's opinion in *Thunder Lube* and to submit a sworn affidavit in support of the stipulation no later than January 17, 2024.

SO ORDERED.

Dated: January 12, 2024
New York, New York



GREGORY H. WOODS
United States District Judge